STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of DEKARI DESHAWN HAYES,
Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

GONZE MIQUEL HAYES,

Respondent-Appellant,

and

DESHAWN MONIQUE TAYLOR,

Respondent.

UNPUBLISHED
April 20, 2006

No. 265149
Wayne Circuit Court
Family Division
LC No. 04-434790-NA

Before: Murphy, P.J., and O'Connell and Murray, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the order terminating his parental rights to his minor child, Dekari Deshawn Hayes, pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant does not challenge the statutory grounds for termination. Rather, he contends that he was denied equal protection when the government (i.e., the caseworker and the trial court) treated him differently from Darvon Smith, the father of another minor child at issue. Respondent-appellant did not raise this issue below, so he did not preserve it. Unpreserved constitutional issues are reviewed for plain error that affects substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

The Equal Protection Clause of the United States Constitution and the Michigan Constitution provide that no person shall be denied the equal protection of the law. US Const, Am XIV; Const 1963, art 1, § 2. Our Supreme Court has stated, "The essence of the Equal Protection Clauses is that the government not treat persons differently on account of certain, largely innate, characteristics that do not justify disparate treatment. Conversely, the Equal

Protection Clauses do not prohibit disparate treatment with respect to individuals on account of other, presumably more genuinely differentiating, characteristics." *Crego v Coleman*, 463 Mich 248, 258; 615 NW2d 218 (2000) (citations omitted). The Court went on to state that "even where the Equal Protection Clauses are implicated, they do not go so far as to prohibit the state from distinguishing between persons, but merely require that 'the distinctions that are made not be arbitrary or invidious.'" *Id*. at 259, quoting *Avery v Midland Co, Texas*, 390 US 474, 484; 88 S Ct 1114; 20 L Ed 2d 45 (1968).

Respondent-appellant argues that the trial court allowed Darvon Smith additional time to rehabilitate himself and to be reunified with his child. Smith attended the court hearings and kept in contact with his caseworker, who testified that Smith participated in parenting classes and completed NA and AA programs. Conversely, respondent-appellant did not attend the initial court hearings and did not regularly make contact with his caseworker. In addition, there was testimony that respondent-appellant did not comply with the parent-agency agreement. Based on the above, we find that the government's actions were not arbitrary and invidious, but rational and justified. Therefore, respondent-appellant has failed to show plain error that affected his substantial rights.

Affirmed.

/s/ William B. Murphy
/s/ Peter D. O'Connell
/s/ Christopher M. Murray